

**PAROWAN CITY COUNCIL MEETING
MARCH 12, 2015
PAROWAN CITY LIBRARY, 16 S. MAIN, 4:00 P.M.**

MEMBERS PRESENT: Mayor Donald G. Landes, Councilmen, Alan Adams, Ben Johnson, Steve Weston, City Attorney Justin Wayment (arrived at 4:10 p.m.), City Recorder Callie Bassett

MEMBERS ABSENT: Councilmen Troy Houston, Steve Thayer, City Manager Shayne Scott

PUBLIC PRESENT: Chuck and Dottie Stade, John Bramall (Traditions H.C.), Cleve Matheson (Parowan City Zoning Officer), Chelsie Remund, Kaylie Orton, Dillon West, Liam Gardner, Aspen Hunter, Justice Walker, Jacob Dalton, Nik Bentley, Josh Ulrich, Jesse Higbee, J.D. Knowles, Bob Whitelaw, Brian Erickson, Darren Lauritzen,

CALL TO ORDER: Mayor Landes called the meeting to order at 4:05 P.M.

OPENING CEREMONIES/THOUGHT/PRAYER – STEVE WESTON: Councilman Steve Weston offered the invocation. He then led the Council and the public in the Pledge of Allegiance.

DOES ANYBODY HAVE ANY CONFLICTS OR PERSONAL INTEREST IN ANY MATTER ON THE AGENDA WHICH NEEDS TO BE DECLARED?

Mayor Landes explained that he, Councilman Adams, and Mrs. Bassett are dressed in costume because they are participating in the community theater production of “1776” tonight.

CONSENT MEETING

**APPROVAL OF MINUTES (FEBRUARY 26, 2015)
PURCHASE ORDERS/WARRANT REGISTER**

Councilman Johnson asked if the sewer camera was a budgeted item. Mrs. Bassett said that it was.

Councilman Johnson moved to approve the consent agenda. Councilman Weston seconded the motion. All council members voted in favor of the motion. The motion carried.

PO #901	Intermountain Sales Inc.	\$12,000.00
PO #904	Scholzen Products	\$ 3,713.32
PO #905	AAA Mobile Storage & Sales	\$ 3,450.00

ACTION MEETING

**IRON COUNTY REST HOME HARDSHIP AGREEMENT:
IRON COUNTY REST HOME UPPER LIMIT AGREEMENT:
HARDSHIP AGREEMENT WITH UTAH MEDICAID:**

Councilman Johnson asked about the employee section of the transfer agreement. He said his understanding is that the City is not taking over the rest home employees. This agreement says "current operators shall terminate employment of each facility employee as of the transfer date." Mr. Brian Erickson asked if this is in the operations transfer agreement for the City to operate the facility. He said that in this agreement, then it would be that operations would be within the City, and so the employees would no longer be employees of the Iron County Nursing Home, they would be rehired and employed by the entity. Councilman Johnson asked if they would be Parowan City employees. Mr. Erickson said no, they wouldn't need to be. He said the City sets up an XYZ entity and then the entity employs the employee and could be structured to have its own set of benefits separate from the City.

Mayor Landes asked if the City would have the payroll for these employees and all of the insurance coverage. Mr. Erickson said no, the current operators would still do that. It would have to be defined in the agreement that the operation has changed, but that the City turns over the management to the current owners, and they handle those things. Councilman Johnson said that is what he understood – that the City wasn't going to own the rest home, only the rights to own the rest home, and then we would lease those rights back to the current owners. So the employees will work for the current owners and are not Parowan City employees.

City Attorney Justin Wayment said, however, that this is not what the agreement says. He said that the agreement says that the City is getting employees. Mr. Wayment said he wants the rest home and its employees to stay, but he has so much heart burn about this contract. He said that this contract says the City is purchasing the business. He said the lease says that we are leasing the property to whomever the next entity is that we are going to get, but before we could do this we would need to have the management agreement in place. He said the City wouldn't lease because the City doesn't own the property. He said he's not sure how this is going to work.

Mr. Erikson said that the City would be leasing the operation. Attorney Wayment said that the contract says the City would be leasing the premises. He said the premises would be the building. Mayor Landes asked if that could be changed to say that the City is only leasing the operation. Mr. Erickson said that the word "premises" is an error.

Attorney Wayment asked if this has to be passed today. He asked if he could get a copy of this agreement in Microsoft Word. Mr. Erickson said he sent a copy of this to Mr. Shayne Scott but he may not have gotten it before he left town. Mr. Wayment said he did not receive a copy of it. Mr. Erickson said they contact the attorney who drafted the agreement and got a copy of it late Tuesday afternoon which he then forwarded to Mr. Scott. Mr. Wayment asked who Mr. Erickson's attorney is. He said he is Barry Clarkson in St. George. Mr. Wayment asked if would be a problem if he spoke with Mr. Clarkson. Mr. Erickson said that would be fine.

Councilman Johnson said when he was finished going through the agreement, it looked to him like the City was purchasing the rest home. It is his understanding that the City will purchase the rights to run the rest home and the City would lease those rights back to the current owners. Mr. Erickson said this is correct. Mr. Wayment said he thought the City was purchasing the license, which is correct. He said, however, this agreement is actually the sale of the business in its entirety.

Mr. Erickson explained for this upper payment limit which they are attempting to do, the upper payment limit will only be distributed to entities that are owned by a non-state government entity – so a City or a County entity. The operations, which is the license to operate the building, is currently owned by Traditions Health Care, which does not meet those requirements. In order for them to get these additional funds from the federal government, they need to be owned by a non-state government entity. That is what the attempt of this agreement was, to sell the operational right of the nursing home to the City so they then own it, but they can have Traditions Health Care run it for them. So they need to have that transferred to the City so the City owns the operations of the nursing home, and it will be recognized by the State and Federal Government as Iron County Nursing Home, owner Parowan City.

Attorney Wayment asked if the City owns the nursing home or just the license. Mr. Erickson said they would own the operations, which is the license. Mr. Wayment asked if by owning the license the City has the right to enter into an agreement that allows Traditions Health Care to run all of the operations. In other words, by owning the license, does the City have to own employees at all? Mr. Erickson said the City would actually lease the operation back and then Traditions Health Care would be fully responsible for the employees and all of the operations. That why there is a lease. Traditions Health Care will pay the City a lease payment for the seed money that they will put forward for the license.

Councilman Johnson asked if by leasing the operational license back to Traditions Health Care, does the City assume any liability, debt, or anything associated with that as part of the operations. Mr. Wayment said potentially yes. The City would certainly be on line for the license. If Traditions Health Care did anything to violate the terms of the license, that would fall on the City's head. Mr. Erickson said this is true. Mr. Wayment said he is not concerned with this. We talk to our insurance, the insurance picks it up and the City is good. Mr. Erickson said they are also required to have their own insurance.

Councilman Johnson asked if this needs to be tabled. Attorney Wayment said he will get with Mr. Clarkson and go over the things that he thinks needs to be looked at and changed. One thing Mr. Wayment wants to be sure is included is an out clause for City in case things go terribly wrong.

Councilman Johnson moved to table the above three items. Councilman Adams seconded the motion. The Mayor called a special meeting to be held next Thursday, March 19th at 5:00 p.m. to approve these items. All council members voted in favor of the motion. The motion carried.

DEPARTMENT OF JUSTICE AGREEMENT – JUSTIN WAYMENT: Attorney Wayment said he detests signing this agreement. He said it is the epitome of our Federal Government. Mr. Scott said if it doesn't cost any money, sign it. But Mr. Wayment said there are a bunch of requirements that Mr. Scott is committing himself to, including special training within 90 days.

Mr. Wayment said that this agreement acknowledges that the City violated the ADA with regard to our hiring practices. The Mayor asked in what way. Mr. Wayment said our police application asked pre-interview whether or not the applicant has any physical impairments that would affect their ability to be a police officer. They said under the ADA that the City is not allowed to ask

this until the applicant has been given an offer of employment, and then, once the employment offer has been given, the City can rescind the offer based on the physical disability.

This application was on our website, and it's the only thing they could find against us. Mr. Wayment explained that we have a new website, the application is no longer on line, and we do all of our hiring through the State. They came back and said that our website was not friendly and did not accommodate those people who might be blind or deaf.

Mr. Wayment said we have to identify someone to be the supervisor and said that should be Mr. Scott. Training has to be supplied to him within 30 days. Councilman Johnson suggested Carmen Aldridge. She is the compliance officer at SUU for ADA. Mr. Wayment suggested that we keep our application off the website, and work through the State of Utah. The State of Utah can worry if they are in compliance with the ADA. Mr. Wayment said he doesn't mean to demean the ADA. He believes everyone should have a fair shot. He said this just does not make sense.

Councilman Weston said this does not make any common sense. He said he has a handicapped daughter and wants the best for her, but this is outrageous. It is unbelievable. Mr. Wayment agreed but said that if the City doesn't sign it, we could be sued by the federal government.

Mayor Landes asked who is supposed to sign it. Mr. Wayment said that it asks for his signature, but he can't sign for the City. It needs to be Mayor Landes' signature.

Councilman Johnson said he totally disagrees with this, but made the motion to approve the agreement with the Department of Justice. Councilman Adams said he totally disagrees as well, but seconded the motion. Mayor Landes said he more than totally disagrees, but asked for a vote. All council members voted in favor of the motion. The motion was carried.

PROPERTY DEED AGREEMENT WITH MEL LAMPH – JUSTIN WAYMENT: Mr. Lamph has decided he is not going to test the property. Attorney Wayment said he is fine with that. Mayor Landes said Mr. Lamph needs some kind of letter from the City. Mr. Cleve Matheson explained that Mr. Lamph wants to sign a document that the City drafts that says he indemnifies and holds the City completely un-responsible for anything that may or may not happen in the future, and he will sign that document.

Mr. Wayment said that the City understands that agreement has no force or affect. Councilman Johnson said he thinks the City has liability no matter what is going on. Mr. Wayment said that Mr. Lamph can sign anything he wants, but at the end of the day, if this property were contaminated and CIRCLA got a hold of it, they will go back through the chain of title and they will hit anyone who has ever owned it. It doesn't matter if they knew about it or not.

Councilman Weston asked if this is the case if we don't do this agreement with Mr. Lamph. Mr. Wayment said if the City owns it, we aren't ever going to do anything with it. So no one is ever going to go test it. He said he doesn't think there is anything wrong with it, but there were transformers on it which can be highly contaminating. We have no knowledge that they ever leaked, and we don't think they did. But if we give the property to Mr. Lamph and he starts

digging and runs into something, and the State comes in and tests it, then it is out of our control. Right now it is in our control, it won't ever be tested, and there won't ever be a problem. Mr. Wayment pointed out that the clean up at the place out by the freeway was \$625,000 for two weeks. These are the kind of costs we are talking about.

Councilman Johnson said even if the City owns that land and we never did anything with it, if a private citizen filed a complaint that we are being hazardous to the environment and required us to test it then we would still have to do something. Mr. Wayment said this is true. He is more than glad to prepare and indemnification agreement. Mayor Landes asked Mr. Wayment to call Mr. Lamph and tell him he is preparing this agreement.

Mr. Matheson added that the property in question has one feature going for it. It has a concrete pad that contained the basins that are always required. Wherever the transformers were sitting, they were on a concrete slab. Councilman Adams said that is good to know. Attorney Wayment asked if there are any cracks in that slab. Mr. Matheson said there are not any cracks.

Councilman Johnson moved to approve the property deed agreement with Mel Lamph, pending legal council's drafting of the indemnity agreement. Councilman Weston seconded the motion. All council members voted in favor of the motion. The motion carried.

WORK MEETING

BUILDING DEPARTMENT/PLANNING AND ZONING REPROT - CLEVE

MATHESON: Mr. Matheson report on the annual building reports. Last year was a relatively average year. He thinks this year we will exceed what we did last year. There were six brand new homes built, and two were built on homes that were taken down and rebuilt a new home in its place. There have already been 3 this year new homes, and he has on his desk approval for two more. Things are picking up a little. Mr. Matheson said these numbers do not reflect the building of the KB Express, but they do include the Family Dollar building. This report shows the property values and the trends.

Councilman Johnson asked about the graph chart. He pointed out that in 2014 we were down from 2013. Mr. Matheson said that is total permits – improvement to a meter or installment of meter generates a permit and is included in these numbers.

Councilman Johnson asked how Parowan's impact fees compare to other municipalities. Mr. Matheson said he hasn't done a comparison, but if it is any indication, the last two permit applicants have commented that they paid a lot less than what they thought they were going to pay. Councilman Johnson said he would be interested in hearing what other nearby City's impact fees are. Mr. Matheson said we have one addition that pushes our numbers a little higher when comparisons are made and that is we have our own power company which we charge impact fees for. Councilman Johnson said we would need to include Rocky Mountain Power's impact fees. He said we need to have a like for like comparison.

Councilman Johnson said the Economic Development committee is doing some branding right now, and impact fee comparison information would be very helpful. Mr. Matheson pointed out

that some charge time and material. Parowan charges a flat fee. Mayor Landes asked Mr. Matheson to get Rocky Mountain Power's impact and connection fees. The council would like to see the comparables.

The Council thanked Mr. Matheson for everything he does for the City.

PAROWAN CITY GRAVEL PIT: Councilman Johnson declared a conflict of interest which he did not do at the first of the meeting. Mr. Bob Evans is his uncle.

Attorney Wayment said he rewrote part of this. The only difference is it was written so the City can get out of it if necessary. He left it with a six month clause. He also clarified the right of access, etc. Mayor Landes said that Mr. Scott said Mr. Evans was alright with these changes.

Councilman Johnson suggested this item be move to the next action meeting.

MEMBER REPORTS:

Councilman Johnson reported the Economic Development committee is working on branding. They are going to bring in SUU marketing students to help with this. They are going to present at the next Economic Development meeting. Mr. Bob Whitelaw asked if the Economic Development meeting is an open meeting and if the public can show up. Councilman Johnson said yes, and that the meeting is held every first Tuesday at 5:30 p.m. in the conference room at State Bank. Mr. Whitelaw said he graduated in marketing and would like to help out if possible.


Councilman Adams said there was a meeting with the contractor and everyone involved with the penstock/hydro plant project and the bypass valve cost is higher than what they originally talked about. It was \$100,000 instead of \$80,000.

Councilman Weston said the Historical Preservation committee met on Wednesday. They discussed the demolition of the dairy and some demolition at the power plant. Both of these items were approved. It was recommended to take away the lean to that is on the power plant property. The Shade Tree Committee has been planning a tree planting service day. It falls within the boundaries of the 3rd and 4th LDS wards for the 23rd of May. They discovered that this is Memorial Day weekend and not a good weekend for the project. So they have invited the high school to participate and will have 150 youth come out on the May 13th. They will need help with adult supervision.

PUBLIC COMMENTS & DISCUSSION:

Molly Bates asked if the City has a Financial Analyst or anyone on staff that looks for correlations and trends to know what the significant events were that would possibly explain the drop in building permits. Councilman Weston said that is when the national economy tanked. Mr. Wayment said that all of Iron County tanked. Las Vegas got hit really badly through 2006-2008. We experienced residual effects. We run about a year and a half to two years behind Las Vegas and St. George. So we can watch them and see where we might be trending.

ADJOURNMENT: Councilman Johnson moved to adjourn the meeting. Councilman Adams seconded the motion. All council members voted in favor of the motion. The meeting was adjourned at 5:00 p.m.


Donald G. Landes, Mayor
Callie Bassett, City Recorder